

Review of the Article 4 Direction Houses in Multiple Occupation Supplementary Planning Document: Consultation Report

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Exeter City Council

Civic Centre

Paris Street

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EX1 1JN



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1. Introduction

1.1 Background

1.1.1 On 28 February 2023 Exeter City Council Executive approved consultation on a revised Article 4 Direction area removing permitted development rights for the change of use of dwellings (Use Class C3) to Houses in Multiple Occupation (HMO) (Use Class C4) and consultation on revisions to the associated HMO Supplementary Housing Document (SPD).

1.1.2 The consultation ran from 22 May to 3 July 2023. Consultees were able to respond online or by submitting responses in writing. Three public exhibitions were held to provide an opportunity for members of the public to discuss the details of the consultation material with Council officers and consultants from Figura Planning, who had undertaken a review of the existing Article 4 Direction and SPD. The three sessions were:

- 7 June, 13.00-19.00, Exeter Guildhall, High Street, EX4 3EB
- 13 June, 13.30-19.00, Newtown Community Centre, Belmont Park, EX1 2HQ
- 20 June, 13.00-19.00, St James Church Hall, Mount Pleasant Road, EX4 7AH

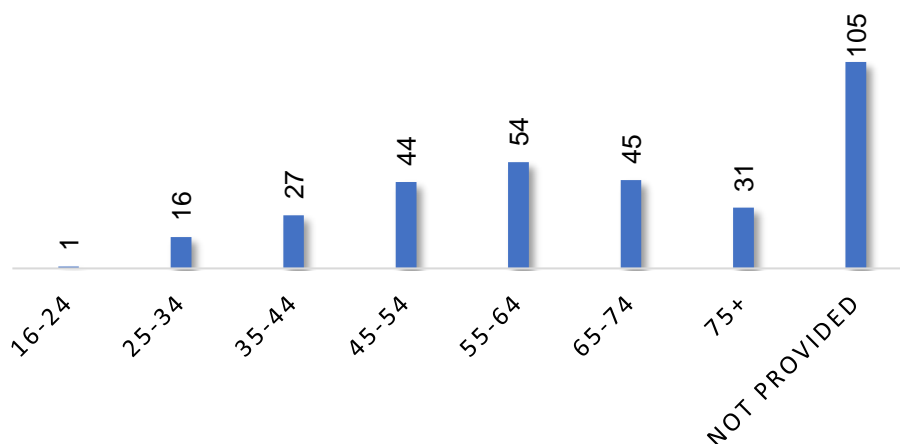
A total of 159 people attended these sessions.

1.1.3 Statutory consultees¹ were informed of the consultation, though given the very specific nature of the issue it is not surprising that they did not submit any comments. Devon County Council and the University of Exeter were directly consulted through officer discussions before and during the consultation and issues identified were addressed in the consultation documents.

1.2 Consultation Responses

1.2.1 331 people filled out a response form, either online or by submitting a paper questionnaire. Only one respondent gave their age as being 16-24. 60% of those providing an age were over 55. Most of the responses came from residents, with just one student responding. The lack of response from students themselves may have been impacted by the fact that the summer term ended the week of 12th June 2023, with many students either having exams that week or leaving campus early.

¹ Including National Highways, Environment Agency, Natural England and Historic England etc.



NUMBER OF RESPONSES BY AGE BAND

What is your connection to the area?	Number of responses
I live here	225
I work here	6
I commute through here	1
I own a business here	1
I study here	1
No answer	89

1.2.2 Over half of respondents lived in Pennsylvania ward (57.5%) and 15% were from Duryard and St. James. There were 15 respondents from Newtown and St. Leonard's, with other areas having single digits of respondents. Some wards had no residents responding. Looking at the most frequent post code sector of residents, it is evident that responses came from areas near the University of Exeter's Streatham campus.

Post sector of residence	Number of responses
EX4 6	100
EX4 5	35
EX4 4	31
EX1 2	14
EX2 4	7
EX4 7	7

1.2.3 Taken as a whole it is clear that the consultation responses reflect the views of residents from areas of higher concentrations of student housing. The views of students and young people were not evidentially well reflected in the consultation response, and there were few responses from landlords and agents, despite efforts to engage.

1.3 The SPD and the Article 4 Direction

1.3.1 The consultation included two separate but interrelated topics. An Article 4 Direction is independent of planning policy and acts to limit national permitted development rights and require specific development or change of use to only

take place following the granting of planning permission. This follows the procedures set out in the General Permitted Development Order 2015 (as amended). Exeter’s Article 4 Direction only relates to a single issue: the requirement to apply for planning permission to change the use of a residential dwellinghouse (Use Class C3 – dwellinghouses) to a HMO (Use Class C4 – shared house occupied by between 3 and 6 unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom). Any HMO with more than 6 residents is a special use class and no permitted development rights apply.

- 1.3.2 An SPD provides detailed guidance on how planning policies (local and national) will be applied within the Local Planning Authority area. An SPD can not make new policy but rather clarifies adopted policies. The HMO SPD amplifies saved policy H5 of the Exeter Local Plan First Review which states that the conversion of dwellings to HMOs will be granted planning consent provided that, amongst other requirements, it does not “create an imbalance in the local community”.

2. Article 4 Direction Consultation Responses

- 2.1.1 The first three questions in the consultation were about proposals to amend the Article 4 Direction map.

Q1. Do you support the Council’s preferred option (option 2) to enlarge the area covered by the Article 4 Direction?

Q1a. If yes, please provide some explanation.

Q1b. If no, please provide some explanation.

Q2. If no to question 1, which of the alternative options do you support?

Q2a. Please explain why you support this alternative option.

Q3. Are there any other options for amending the Article 4 Direction area?

- 2.1.2 There were 331 responses to the question: *Do you support the Council’s preferred option (option 2) to enlarge the area covered by the Article 4 Direction?*

Yes – 126 (38%)
No – 146 (44%)
No answer – 59 (18%)

2.1 Support for “option 2”

- 2.1.1 Of the people responding Yes to support, 112 provided some comment:

- The most common comment was that option 2 was a reasonable compromise between control and making provision for non-student HMOs. Several (19) respondents commented that acting as soon as possible was most important, and that option 2 was a good interim step and the City Council could monitor and expand again later if warranted;
- 13 respondents pointed out ongoing issues with amenity (noise, waste, parking), suggesting these should be addressed in addition to changes to the area of control;

- Almost 20 people pointed out concerns about the need to maintain a balance of household types and support family housing in the city centre;
- There were a few specific comments in relation to landlord issues. One comment was that “If there are problem tenants it's impossible to identify the owner to complain.” It should be noted that HMO licences can be viewed online by entering a postcode or address – see: <https://publicaccess.exeter.gov.uk/online-applications/search.do?action=simple&searchType=Licencing>

2.1.2 Of people saying they supported option 2, 16 went on to respond to question 2 (*which of the alternative options do you support?*) by suggesting a second choice option. Of these, 7 suggested option 3 (greater expansion, but with no new exempt areas), 6 supported option 4 (city-wide) and 3 suggested option 1 (do nothing) would be second choice.

2.2 Do not support the preferred option

2.2.1 Of the 146 respondents saying they did not support option 2 there was a strong preference for option 3 – an expanded Article 4 area, but with greater exemption areas.

Option 1	25
Option 3	70
Option 4	40
No preference	11

2.2.2 Of people supporting option 1 there were a mix of comments, with several mentioning the importance of shared accommodation for working professionals and keyworkers. However, a number of people in this group also commented that there were too many students or too many HMOs and raised issues of amenity and affordability.

2.2.3 Many comments suggested adding in the respondents' specific postcodes or streets (e.g. “The map and area needs to cover EX4 NXX too”). There were many specific comments about Rosebarn Lane and Stoke Hill in particular. 10 people who said ‘No’ they did not support the preferred option did not chose an alternative option.

2.2.4 People supporting option 3 generally suggested this was better as it brought in specific postcodes or streets where they resided. Most of the people supporting option 4 were seeking to have their specific area included in the Article 4 area and many suggested efforts should be made to halt the growth in student numbers. Several comments mentioned city-wide issues beyond the control of HMOs or permitted development (social housing, traffic, parking).

2.3 Other Options

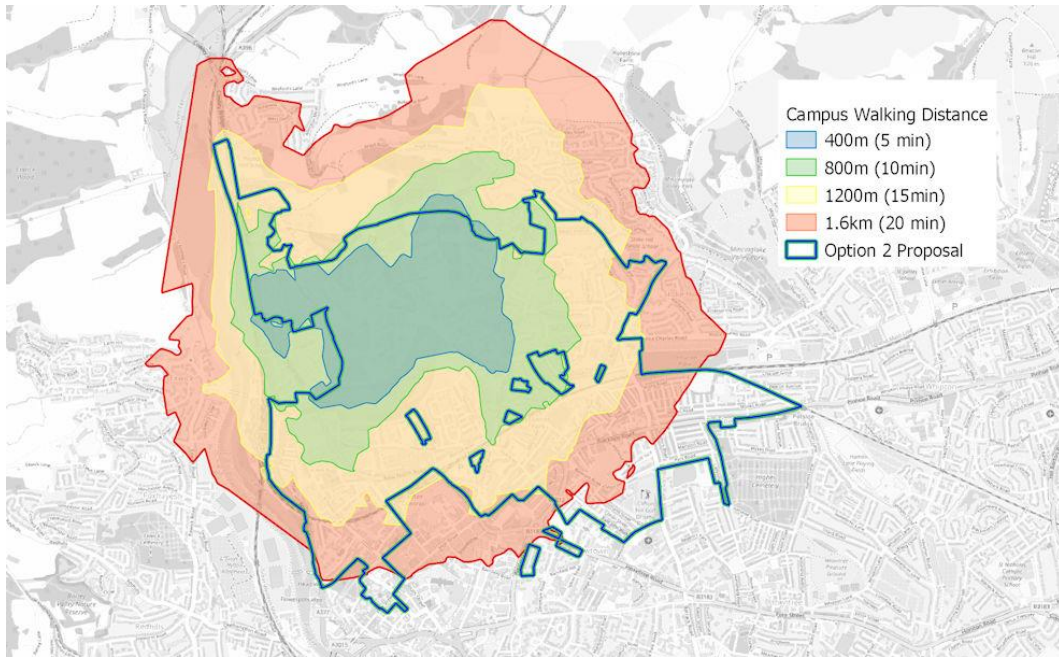
2.3.1 In response to the question *Are there any other options for amending the Article 4 Direction area?* 76 comments offered suggestions. Of these, one third suggested extensions to the Article 4 area to bring in specific postcodes or neighbourhoods. Fourteen responses mentioned the ‘exempt areas’, with many suggesting these

had been 'abandoned' for dealing with residents' issues and that there was a need to bring these under some sort of control.

- 2.3.2 There were several comments that the University was too big and that there should be no new HMOs. Some issues beyond Exeter City Council's remit, such as student council tax exemptions and parking, were also mentioned.
- 2.3.3 There were some suggestions to change the criteria for decision making (e.g. use a radius approach). However, Figura's report recommends using a postcode approach as the most efficient basis for assessing the number of council tax exemptions and properties and for future monitoring and decision making. Whilst a radius approach can be straightforward, it would require GIS software and the linking of several different services' data. There were also some suggestions to use alternative thresholds for drawing the future boundaries of a new Article 4 map. However, the consultation sought views on two thresholds (20% under option 2 and 10% under option 3) and, given the number of homes in each postcode, it is considered that alternative thresholds would generally not have any significant impact on the extent of the Article 4 area.

2.4 Consideration of response to consultation issues raised

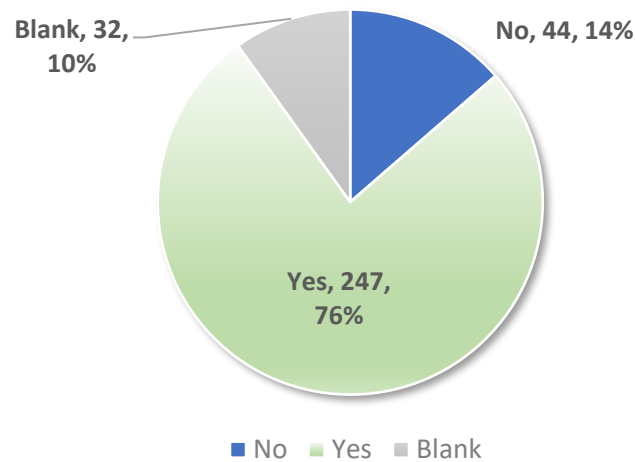
- 2.4.1 The responses submitted mirrored previous communication with the City Council and comments shared during the exhibitions. Local residents had strong concerns about amenity and impacts on the affordability and availability of housing, for young families in particular.
- 2.4.2 Many residents made a case to include their postcode or street or neighbourhood in the Article 4 area. There was a clear feeling that the review of the area was long overdue with a sense of urgency to update the area. Many respondents felt that the area should be larger, as expansion of student numbers might continue and this would take the pressure off from making an early update to the Direction.
- 2.4.3 Several people expressed concern that option 2 could result in more 'leapfrogging', pushing new HMO conversions further out along the boundary of the Article 4 area. As there are currently such boundary effects, it is reasonable to assume that this could happen. However, in practice, the demand for student rentals is generally within walking distance of the University.
- 2.4.4 Given this, a walking time map for the University was generated for the main Streatham campus to see how this compared to the options consulted upon. If the Article 4 Direction were to be amended in this way, it would restrict the creation of new HMOs in areas where there are some signs of increasing numbers of private rentals, such as the area to the north east of the campus around Stoke Hill Junior School and Collins Road/Stoke Valley Road. However, evidence shows that there are very few HMO conversions in these areas and no significant areas of student council tax exemptions. Also, an Article 4 map based on walking distances would include a similar number of homes to option 3. This would require significant work to expand or create new exempt areas in order to meet student housing needs, which would delay the Council's ability to amend the Article 4 Direction.



3. Supplementary Planning Document (SPD) Consultation Responses

3.1 Support for the SPD

3.1.1 There were 331 responses to the question: *Q4 do you support the Council's proposed HMO SPD?*



3.1.2 Of the 247 responses expressing support for the SPD, 195 people left comments as to why they supported it. Among the most common comments were:

- Amenity issues and objections to the numbers of students in general and impact on the character of an area (including impacts outside term time);
- Parking and traffic issues need to be managed;
- Need a broader balance of households and more families in the city centre;
- Need to expand the Article 4 area and include specific additional areas;

- Objection to the principle of student council tax exemptions.

3.1.3 Additional comments of note include:

- Need for ongoing monitoring of student housing;
- Need for greater clarification of what 'exceptional circumstances' the Council will accept when determining planning applications to convert dwellings to HMOs - for example, what is the specific threshold for 'demonstrable difficulty in achieving a satisfactory sale'? The current text is too subjective;
- Living conditions and/or climate/energy requirements should be included for HMOs.

3.1.4 The majority of these comments are beyond the remit of the SPD. The Article 4 Direction will help to restrict the loss of potential family homes through conversion to HMO and thereby maintain a balance of households in the area. It is not considered appropriate for the SPD to specify exceptional circumstances, as these are by their nature exceptional.

3.2 SPD critical comments

3.2.1 Of the 14% responding 'No' to supporting the SPD, half provided a comment or explanation. Most felt that the document should go further in stopping HMOs (either through a larger Article 4 area or stricter criteria) and/or that reductions in student numbers overall should be sought. Almost a quarter of respondents answering 'No' argued that there were legitimate needs for HMOs in the city centre, including for keyworkers, single people and students, and objected to the SPD as being overly restrictive.

3.3 Response to consultation issues raised

3.3.1 A few comments merit explanation:

- Some respondents questioned why there was so little change proposed from the existing SPD or why there was no SPD option to do something radically different. However, the SPD amplifies policy H5 of the Exeter Local Plan First Review. Until/unless there is significant change to that policy (through examination and adoption of a new local plan) or national policy, there can be no fundamental change to the approach of the SPD;
- Some comments indicated confusion between the percentages used in producing the proposed Article 4 direction map and the approach to thresholds in decision making. Once the new Article 4 direction is made, with the accompanying updated map, this will form the area where planning permission for a change of use to an HMO is required;
- There were several comments about student council tax exemptions. These are not issued based on a property being an HMO. These relate to properties that are entirely occupied by students regardless of tenure, and this is a national policy² that is outside the control of the City Council;
- Some responses indicated that the change to the Article 4 area should take place immediately. As noted in the February 2023 report to the Executive, the change to the Article 4 Direction is being announced for a one-year

² <https://www.gov.uk/council-tax/discounts-for-full-time-students>

implementation to ensure the Council is not liable for any private real estate transaction losses.

- 3.3.2 There were several comments made about the criteria used in decision making for the definition of community imbalance in policy H5. Paragraph 5.1 of the revised SPD explains that, within the Article 4 area, the Council regards the existing proportion of properties with student Council Tax exemptions to be an over-concentration of student housing for the purpose of policy H5 and so will resist and further changes of use to HMOs within this area.

4. Consultation Outcomes

- 4.1.1 Based on consideration of feedback from the consultation, the City Council will continue to manage changes of use of dwellings to HMOs through a restrictive Article 4 direction in the areas under most pressure for student housing. Of the options consulted upon, option 2 received most support in responses and can therefore be justified as the basis for a new Article 4 Direction.
- 4.1.2 The review of the Article 4 Direction map and the consultation responses make it clear that the impact of student housing needs to be monitored on an ongoing basis to ensure that, if further modifications are needed, these can be implemented quickly. In addition, the consultation responses will influence the development of policy proposals in the new Exeter Plan.
- 4.1.3 The SPD which clarifies application of the saved local plan policy H5 has received minor editorial updates though the fundamental approach of not permitting further HMO conversions in the Article 4 area will continue.